



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 24 2001

OFFICE OF
CIVIL RIGHTS

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In Reply Refer to:
01R-01-R2

Honorable Roy A. Bernardi
Mayor, City of Syracuse
203 City Hall
Syracuse, NY 13202

Re: REJECTION OF ADMINISTRATIVE COMPLAINT

Dear Mayor Bernardi:

This letter concerns the administrative complaint filed by [REDACTED] on December 22, 2000, with the U.S. Department of Justice (DOJ). The DOJ referred the complaint to the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) on February 5, 2001. The complaint alleges violations of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.* (Title VI) and EPA's regulations implementing Title VI found at 40 C.F.R. Part 7 by the City of Syracuse and the County of Onondaga in the construction of a sewage treatment plant. The purpose of this letter is to inform you that [REDACTED] complaint has been rejected for investigation by EPA.

Under Title VI, a recipient of federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI implementing regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). A complaint must meet the jurisdictional requirements described in EPA's Title VI regulations for investigations. First, it must be in writing. Second, it must describe an alleged discriminatory act that violates EPA's Title VI regulations (*i.e.*, an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 days of the alleged discriminatory act. 40 C.F.R. § 7.120. Fourth, because EPA's Title VI regulations only apply to applicants and recipients of EPA assistance, the complaint must identify an applicant or recipient of EPA assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

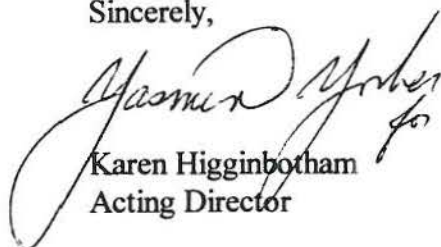
[REDACTED]'s complaint meets only three of the four jurisdictional requirements in 40 C.F.R. Part 7. First, the complaint is in writing. Second, the complaint alleges that the construction of a sewage treatment plant has a discriminatory effect against minorities living in the City of Syracuse in violation of Part 7. Third, the City of Syracuse and the County of Onondaga

construction of a sewage treatment plant has a discriminatory effect against minorities living in the City of Syracuse in violation of Part 7. Third, the City of Syracuse and the County of Onondaga were recipients of EPA financial assistance at the time of the alleged discriminatory act. The element missing from the complaint is the timeliness requirement.

In determining whether the complaint was timely, EPA looked at several milestones that led to the construction of the sewage treatment plant. Even if we used the last of these milestones (*i.e.*, commencement of construction), the complaint would not be timely because 221 days went by from the first day of construction, May 1, 2000, and the day on which the complaint was filed with DOJ, December 22, 2000. EPA considers a complaint filed on the date it is received by EPA or by another federal agency. Since this complaint was not filed within 180 days of the alleged discriminatory act, it must be rejected for investigation.

If you have any questions, please contact Eva Hahn by phone at (202) 564-8186, by e-mail at hahn.eva@epa.gov, or by mail to the U.S. EPA (Mail Code 2201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,



Karen Higginbotham
Acting Director

cc: Nicholas J. Pirro, County Executive
421 Montgomery Street, 14th Floor
Office of County Executive
Syracuse, NY 13202

The Honorable Charles E. Schumer
United States Senator
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Merrily A. Friedlander, Chief
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Melva Hayden, Title VI Coordinator
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Gail Ginsberg, Chair
Title VI Task Force (MC2201A)